

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

BOBBY RAY HAILEY,)	
)	
Petitioner,)	
)	1:16CV642
v.)	1:05CR7-1
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER

The Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on November 22, 2016, was served on the parties in this action. On November 27, 2016, Petitioner signed and subsequently filed a pro se objection to the Recommendation that largely complains that he has not heard from his appointed counsel in this case. (Doc. 72.) On February 6, 2017, Petitioner's appointed counsel filed a notice that he would file no objection to the Recommendation. (Doc. 74.) In that notice, Petitioner's appointed counsel indicates that he has specifically advised Petitioner of his legal advice following a conscientious review of the case, including his advice about Petitioner's options regarding limitations on second or successive petitions. (Id. at 1.) Therefore, the court finds that the case is ripe for decision.

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made

a *de novo* determination, which is in accord with the Magistrate Judge's report. The court therefore adopts the Magistrate Judge's recommendation.

IT IS THEREFORE ORDERED that Petitioner's motion to vacate, set aside or correct sentence (Doc. 67) be DENIED, and that this action be DISMISSED WITH PREJUDICE. A judgment dismissing this action will be entered contemporaneously with this Order. Finding neither a substantial issue for appeal concerning the denial of a constitutional right affecting the conviction nor a debatable procedural ruling, a certificate of appealability is not issued.

 /s/ Thomas D. Schroeder
United States District Judge

March 7, 2017